SBCivil Writ Petition No.2557/1993

Thar Aanchalik Gramin Bank Staff Association
v.
Thar Aanchlik Gramin Bank

Date of Order :: 07th July, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Vijay Mehta, for the petitioner.
Mr. J.L.Purohit, for the respondent.

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The petitioner preferred an application to substitute respondent Thar Aanchlik Gramin Bank, Jodhpur by Jaipur Thar Gramin Bank, 56, Sardar Patel Marg, Jaipur due to merger of Thar Gramin Bank with Jaipur Thar Gramin Bank. The application is allowed. The Jaipur Thar Gramin Bank, 56, Sardar Patel Marg, Jaipur is substituted as respondent in present petition. Shri J.L.Purohit accepts notice on behalf of the substituted respondent.

The petitioner, a registered union having membership among the employees working in the respondent Bank preferred this writ petition for regularisation of part time regular messengers in service from the date of their continuous engagements.

In brief, the facts of the case are that under a circular dated 28.2.1984 issued by Thar

Aanchlik Gramin Bank, an authorisation was given to the Branch Managers of various branches of the banks to employee workers on daily rate basis provided they possess minimum qualification upto 8th standard. Accordingly number of part time regular messengers were employed at various branches of the bank. According to the averments contained in the writ petition the part time regular messengers were paid quite less wages than to the wages of regular messengers though their services were also utilised for full time. It is further stated that the employees of various Regional Rural Banks created under Regional Rural Banks Rules, 1976 through their unions preferred certain writ petitions before Hon'ble Supreme Court claiming parity in grant of pay scales vis-a-vis the employees of the sponsored banks. Hon'ble Supreme Court instead of entering into merits at its own desired to constitute a National Industrial Tribunal to adjudicate the grievance of the employees of the Regional Rural Banks, therefore, under a notification of Government of India dated 26.11.1987 the National Industrial Tribunal was constituted under the Chairpersonship of Justice S.Obul Reddy, former Chief Justice of Hon'ble Andhra Pradesh High Court to adjudicate the dispute raised by the unions. The National Industrial Tribunal submitted its award to the Government of India on 30.4.1990. The tribunal in para 4.410 of its award recommended as under:-

> "4.410.--In view of the authoritative pronouncements of the Supreme Court, it must be held that the part time sweepers cum messengers who were employed on daily wages or on half of the salary or on some other proportion of the salary of a regular messenger, will be entitled to their various claims such as equal pay and all other attendant benefits as are admissible to regularly appointed full time messengers in the respective RRBs. That there was/is no sanctioned post of a regular messengers in the branch or the head office is absolutely irrelevant and immaterial in view of the proved facts that the so called part time messengers, whether on daily wages or on some other basis, were made to work full time by their respective managements. The Managements cannot extract full time work and even beyond the working hours from the so called part time messengers by merely showing them in the acquittance rolls as part time employees paid on either daily wages or some other basis; or on some proportionate basis. Their services shall be regularised with effect from the date of their continuous engagement. If seemes necessary it will be open to the Government or the RRBs as the case may be, to sanction the required number of posts to accmmodate the writ petitioners and all those belonging to their class."

The award aforesaid was made effective from 1.9.1987. An equivalence committee was subsequently constituted and the Government of India, Ministry of Finance on 22.2.1991 issued a direction to various

Regional Rural Banks in respect of part time employees to take appropriate decision about their fitment by determining the fact as to whether they performed part time or full time duties. In view of the direction referred above dated 22.2.1991 the respondent bank communicated to NABARD that it was engaging part time messengers-cum-sweepers on daily rate basis and is utilising their services for about 34 hours to 39 hours per week. The respondent bank thereafter took a decision to regularise services of part time regular messengers-cum-safai karamcharis w.e.f. 1.12.1992. Being aggrieved by the same this petition for writ is preferred claiming regularisation of services of part time regular messengers-cum-safai karamcharis from the date of their initial engagement.

A reply to the writ petition is filed on behalf of the respondent stating therein that the part time regular messengers were brought at par with regular employees of the sponsored banks w.e.f. 1.12.1992 after determining the fact that they were working equal to full time messengers. Such equity was made in the year 1991 and, therefore, after receiving report in this regard which was accepted by Government of India a decision was taken to allow the regular pay scales by making necessary fitment.

Heard counsel for the parties.

As a matter of fact the controversy involved in this writ petition is no more res-integra in view of Division Bench judgment of this Court in the case of Marudhar Kshetriya Gram Bank v. Mahavir Singh & Anr., DBCivil Special Appeal (W) No.70/2002, decided on 21.4.2003. The Division Bench by judgment aforesaid while dealing with the same controversy held as under:-

> "From the aforesaid it is apparent that part-time sweepers-cum-messengers were directed to be regularised with effect from the date of their continuous engagements. The contention on behalf of the employers that there was or is not a sanctioned post of a regular messenger in a branch or the head office was found to be absolutely irrelevant and immaterial in view of the proved facts that the so called part-time messengers, whether on daily wages or on some other basis, were made to work full time by their respective managements. The Managements cannot extract full time work and even beyond the working hours from the so called part-time messengers by merely showing them in the acquittance rolls as part-time employees paid on either daily wages; or some other basis; or on some proportionate basis. Apparently, the reference was made for the Class of part-time sweepers-cum-messengers employed by the Regional Rural Bank as a whole and it was not a case relating to examination of individual case and the relief has been granted to the Sweepers-cum-Messengers as a class. After the award has been made, there is no room for further contention in respect

> of sweepers-cum-messengers who have bee enrolled as regular employees by the RRBs to contend otherwise. In terms of the Award, their services are bound to be regularised with effect from the date of their continuous officiation and not w.e.f. 1.9.1987.
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> Apparently, the consequence of this regularisation from the date of first engagement is continued called for consideration of the relief to follow as a consequence thereof.
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> Both these paragraphs if read together leaves no room of doubt in our mind that the Tribunal directed pay parity of such employees to be regularised in terms of para 4.410 with effect from the date of their continuous officiation with corresponding pay and emoluments paid to the officers and other employees of the Sponsor Banks w.e.f. 01st day of September, 1987 and prior to 1st September, 1987 the pay parity with the employee of RRBs was to be maintained with the allowances, benefits which the State Government servants of comparable level and status are entitled to."

Counsel for the respondent also not dispute that the controversy involved in the case of Marudhar Kshetriya Gram Bank (supra) was exactly similar to the present writ petition.

In view of the premise aforesaid this petition for writ is allowed. The respondent bank is

directed to regularise services of the part time regular messengers-cum-sweepers working with it from the date of their continuous engagements. The part time regular messengers-cum-sweepers so regularised shall also be entitled for all consequential benefits.

No order to costs.

(GOVIND MATHUR),J.

kkm/ps.